



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[SATS No. WY-044-FOR; Docket ID OSM-2013-0001]

Wyoming Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** We are announcing receipt of a proposed amendment to the Wyoming regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 ("SMCRA" or "the Act"). Wyoming proposes revisions to rules concerning valid existing rights and individual civil penalties. Wyoming intends to revise its program to be consistent with the

corresponding Federal regulations and SMCRA, clarify ambiguities, and improve operational efficiency.

This document gives the times and locations that the Wyoming program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4:00 p.m., m.d.t., [Insert date 30 days after date of publication in the Federal Register]. If requested, we will hold a public hearing on the amendment on [Insert date 25 days after date of publication in the Federal Register]. We will accept requests to speak until 4:00 p.m., m.d.t. on [Insert date 15 days after date of publication in the Federal Register].

**ADDRESSES:** You may submit comments by either of the following two methods:

- Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). This proposed rule has been assigned Docket ID: OSM-2013-0001. If you would like to submit comments through the Federal eRulemaking Portal, go to [www.regulations.gov](http://www.regulations.gov) and follow the

instructions.

- Mail/Hand Delivery/Courier:

Jeffrey Fleischman, Director

Casper Field Office

Office of Surface Mining Reclamation and Enforcement

Dick Cheney Federal Building, POB 11018, 150 East B Street

Casper, Wyoming 82601-1018

For detailed instructions on submitting comments and additional information on the rulemaking process, see the "III. Public Comment Procedures" in the "**SUPPLEMENTARY INFORMATION**" section of this document.

In addition to viewing the docket and obtaining copies of documents at [www.regulations.gov](http://www.regulations.gov), you may review copies of the Wyoming program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, may be obtained at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may also receive one free copy of the amendment by contacting OSM's Casper Field Office.

Jeffrey Fleischman, Director

Casper Field Office

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**FOR FURTHER INFORMATION CONTACT:** Jeffrey Fleischman, Telephone:

(307) 261-6547. Internet: jfleischman@osmre.gov.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Wyoming Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

## **I. Background on the Wyoming Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act...; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a) (1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program in the November 26, 1980, Federal Register (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.12, 950.15, 950.16, and 950.20.

## **II. Description of the Proposed Amendment**

By letter dated January 4, 2013, Wyoming sent us a proposed

amendment to its approved regulatory program (Administrative Record Docket ID No. OSM-2013-0001) under SMCRA (30 U.S.C. 1201 et seq.). Wyoming submitted the amendment in response to a concern letter OSM sent relating to valid existing rights (VER) and a Federal Register notice (78 FR 10512) that disapproved several proposed VER rule changes that were required by an April 2, 2001, letter we sent in accordance with 30 CFR 732.17(c). That letter required Wyoming to submit amendments to ensure its program remains consistent with the Federal program. This amendment package is intended to address all remaining required rule changes pertaining to VER. Wyoming also proposes changes to its rules for individual civil penalties that were disapproved in the Federal Register notice.

Specifically, Wyoming proposes to amend the Land Quality Division Coal Rules and Regulations at Chapter 1, Section 2(fl) (definition of "Valid Existing Rights" and the applicable standards and procedures used to evaluate VER claims); Chapter 12, Section 1(a) (v)-(vii) (VER determination and permitting procedures); Chapter 16, Section 4(a)(iii) (definition of "willfully"); and 16, Section 4(b)(i) (assessment of individual civil penalties). The full text of the program amendment is available for you to read at the locations listed above under **"ADDRESSES"**.

### III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Wyoming program.

#### Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see "**DATES**") or sent to an address other than those listed above (see "**ADDRESSES**") will be included in the docket for this rulemaking and considered.

### Public Availability of Comments:

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment - including your personal identifying information - may be made publicly available in the electronic docket for this rulemaking at [www.regulations.gov](http://www.regulations.gov). While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### Public Hearing

If you wish to speak at the public hearing, contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4:00 p.m., m.d.t. on [Insert date 15 days after date of publication in the Federal Register]. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under "**FOR FURTHER INFORMATION CONTACT.**" We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.



To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

#### Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT"**. All such meetings are open to the public; if possible, we will post notices of meetings at the locations listed under **"ADDRESSES"**. We will make a written summary of each meeting a part of the administrative record.

#### **IV. Procedural Determinations**

## Executive Order 12866 - Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

## Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the Federal Register indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

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Allen D. Klein  
Director, Western Region

January 18, 2013  
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Date

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